

REMARKS

The above-identified application is United States application serial number 10/697,821 filed on October 29, 2003. Claims 1-25 are pending in the application. Claims 1-25 are rejected.

Rejection of Claims under 35 U.S.C. §102

Claims 1-25 are rejected under 35 U.S.C. §102(b) as being anticipated by Matsunami et al. (US Pub No. 2004/0193760). Applicants traverse the rejection under 35 U.S.C. §102(b) on the basis that the invention was *not* patented or described in a printed publication in this or a foreign country . . . more than one year prior to the date of application for the patent in the United States. In the present case, the applicants' application was filed on October 19, 2003, predating the publication date of September 30, 2004 of the reference.

Applicants believe the Examiner intended to reject the claims instead under 35 U.S.C. §102(e) in view of the Examiner's entry of the description of 35 U.S.C. §102(e) in the Office action. Applicants have attached a Declaration under 37 CFR 1.131 signed by the inventors declaring facts that the inventors conceived of the subject matter claimed in Claims 1-25 prior to March 27, 2003, and continuous diligence at least to the time of filing the application on October 29, 2003. Applicants have also attached a Declaration under 37 CFR 1.131 signed by the attorney showing diligence in preparing and filing the application at a time through the time of filing on October 29, 2003.

Evidentiary documents are attached showing facts of conception and diligence as follows:

Appendix I is a copy of the disclosure document received by Hewlett-Packard Company on March 8, 2003, with supplemental addendum on March 8, 2003. Other dates that establish earlier conception are blocked off. The first two pages of the Invention Disclosure include reference material, title, inventors, and inventor contact information. Third and fifth pages describe technical aspects of an embodiment showing the claimed structure and techniques including the storage system comprising a storage array containing a plurality of storage devices of at least three types (including Fibre Channel (FC) and Serial ATA (S-ATA) and having a respective class hierarchy. The disclosure also shows a controller coupled to the storage device hierarchy and capable of executing an hierarchical

storage management capability that selectively controls access to the hierarchy of storage devices corresponding to claims 1, 10, 18, and 25. Also shown are specifics of the priority of the hierarchy, as claimed in independent claims.

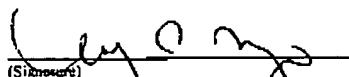
Also attached hereto as exhibit II are nine pages of an official document for usage in Hewlett-Packard's Disclose 4.5 - HP Invention Disclosure System. The document includes invention disclosure material on the first two pages, inventor information and other administrative information on third and fourth pages, some of which is blacked out for privacy purposes, and the final five pages are disclosure material that duplicates appendix I. The disclosure material shows submission on March 11, 2003, showing invention prior to the date of the reference cited by the Examiner. The fourth page shows that the disclosure was received by the Hewlett-Packard legal department on March 17, 2003.

Also attached hereto as exhibit III is an email dated June 30, 2003. In combination, exhibits II and III show diligence in review of the disclosure and determining whether to proceed on the application in the time from submission of the disclosure on March 11, 2003, to emailing the disclosure to outside counsel on June 30, 2003. The filing date of October 29, 2003 indicates diligence in working with inventors to prepare the application, and review by corporate counsel.

CONCLUSION

The application, including all remaining Claims 1-25, is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned at (949) 251-0250.

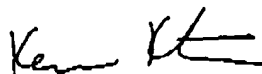
I hereby certify that this correspondence is being facsimile transmitted to the USPTO, Central Number at (571) 273-8300 on the date shown below:


(Signature)

Ken J. Koestner
(Printed Name of Person Signing Certificate)

September 18, 2006
(Date)

Respectfully submitted,



Ken J. Koestner
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Reg. No. 33,004